

REMARKS

Claims 1-75 were presented in the application as entered into the U.S. national phase on June 23, 2006. In a concurrently-filed preliminary amendment, Applicants canceled claims 1-75 and added new claims 76-108. By amendment above Applicants cancel claims 76-91, 93-96, 99 and 103-108 and add new claims 109 and 110. Claims 92, 97, 98, 100-102, 109 and 110 are pending.

The Examiner's rejections are addressed below. Reconsideration of the application and allowance of all claims pending herein are respectfully requested in view of the following remarks.

In the office action of October 3, 2011, claim 79 was rejected under 35 USC §112, second paragraph. The claim has been canceled.

In the office action of October 3, 2011, all of the claims under examination except claim 102 were rejected under 35 USC §112, first paragraph, as lacking enablement. The examiner stated that "the claims are only enabled for compounds in which R¹ is a benzene or a pyridine and E is also a benzene or a pyridine." The claims are herein amended so that the only remaining independent claim, claim 92, has been limited to compounds in which R¹ is a benzene and E is also a benzene, thus complying with the description given by the examiner of an enabled genus. Claim 102 has been amended to remove compounds that would fall outside the genus of amended claim 92, from which it depends. In view of these amendments, it is believed that the rejection is overcome.

In the office action of October 3, 2011, claims 76-79, 89-92, 101, 103 and 104 were rejected as anticipated by Maw, US patent 6,200,978. By amendment above, claims 76-91, 93-96, 99 and 103-108 are canceled. Of the originally rejected claims, only 92 and 101 remain pending. Maw discloses a compound in which Applicants' R² and R³ form a piperazine ring. Claim 92 has been amended to limit the values of R² and R³ to hydrogen and methyl. Consequently the claims no longer read on ring structures, and anticipation no longer obtains.

Claims 76-78, 89-91, 101, 103 and 104 were rejected as anticipated by Bell US patent 6,015,825. Of the originally rejected claims, only 101 remains pending. Bell discloses

compounds in which Applicants' residue A is a C₄ hydrocarbon linker substituted with a hydroxyl group and R² and R³ form a triazole ring. Claim 101 has been amended to depend from claim 92, which was not rejected over Bell, and claim 92 has been amended to limit the values of R² and R³ to hydrogen and methyl. Consequently, neither claim 92 nor claim 101 could read on the compounds of Bell. Reconsideration and withdrawal of the rejection under 35 USC 102 is requested.

In the office action of October 3, 2011, claims 76-80, 86-92 and 94-104 were provisionally rejected for obviousness-type double patenting over three copending applications: (1) US 12/531,013; (2) US 11/993,823; and (3) 11/993,831. The first of these, US 12/531,013, has been abandoned, rendering double patenting over this application moot. Applications two and three, US 11/993,823 and 11/993,831, both have filing dates of December 21, 2007. The instant application carries a filing date of June 23, 2006. Without conceding that ODP exists, Applicants note that according to MPEP 1490.V.D "If two (or more) pending applications are filed, in each of which a rejection of one claimed invention over the other on the ground of provisional ~~**>~~nonstatutory< double patenting (ODP) is proper, the ~~>~~provisional< ODP rejection will be made in each application. If the ~~>~~provisional< ODP rejection is the only rejection remaining in the earlier-filed of the two pending applications, (but the later-filed application is rejectable on other grounds), the examiner should then withdraw ~~*>~~the provisional ODP< rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer." Applicants therefore request that the examiner withdraw the provisional ODP rejection and permit this application, which is the earlier-filed application, to issue as a patent without a terminal disclaimer.

There being no further outstanding issues, the application is believed in condition for allowance, and such is respectfully requested.

No fees are believed due. However, the Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to Deposit Account No. 08-1935, Reference No. 3073.006B.

If a telephone conference would be of assistance in advancing the prosecution of the subject application, Applicants' undersigned agent invites the Examiner to telephone him at the number provided.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Philip E. Hansen", with a long horizontal flourish extending to the right.

Philip E. Hansen
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